

HOUSE BILL NO. 250

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES EASTMAN, Johnson, Rauscher, Sullivan-Leonard

Introduced: 5/15/17

Referred: Health and Social Services, State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act interpreting the right to privacy under art. I, sec. 22, Constitution of the State**
2 **of Alaska; relating to the description of a natural person; defining 'conception' and**
3 **'preborn child'; relating to civil actions and liability under the Act; repealing limitations**
4 **on the applicability of laws criminalizing the murder or assault of an unborn child;**
5 **repealing abortion procedures; relating to crimes involving multiple deaths; changing**
6 **provisions of certain crimes involving murder, manslaughter, homicide, and assault to**
7 **refer to preborn children and relating to the penalties and other provisions relating to**
8 **those crimes; relating to the powers of guardians; relating to powers of attorney for**
9 **health care decisions; relating to regulation of abortion; relating to medical treatment**
10 **for minors; relating to the office of public advocacy; repealing medical assistance**
11 **payment for abortions; relating to court jurisdiction; replacing the term 'unborn' with**
12 **'preborn' in certain instances; amending Rule 404(a), Alaska Rules of Appellate**

1 **Procedure; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. This Act may be known as the Life at Conception Act of 2017.

6 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 LEGISLATIVE FINDINGS. Notwithstanding any other provision of law, the
9 legislature finds that

10 (1) the preamble to the Constitution of the State of Alaska opens, "We the
11 people of Alaska, grateful to God and to those who founded our nation," and the Declaration
12 of Independence states, "We hold these truths to be self-evident, that all men are created
13 equal, that they are endowed by their Creator with certain unalienable Rights, that among
14 these are Life That to secure these rights, Governments are instituted among Men," and
15 the legislature recognizes that government has a duty to protect and defend the right to life
16 that God has granted to all human beings;

17 (2) the Constitution of the State of Alaska declares, in art. I, sec. 1, that "all
18 persons have a natural right to life," and the Constitution of the State of Alaska further
19 declares in art. I, sec. 7, "No person shall be deprived of life, liberty, or property, without due
20 process of law";

21 (3) in order to secure the natural right to life for all persons, government must
22 recognize all persons, without discrimination based on age, size, location, disability, stage of
23 development, or condition of dependency;

24 (4) art. I, sec. 1, Constitution of the State of Alaska, provides "that all persons
25 are equal and entitled to equal rights, opportunities, and protection under the law";

26 (5) art. II, sec. 1, Constitution of the State of Alaska, provides that "The
27 legislative power of the State is vested in a legislature"; the legislature lacks the authority to
28 delegate any portion of the legislative power to the courts, and further, the legislature has not
29 done so;

30 (6) protection of the right to life explicitly recognized by the Constitution of

the State of Alaska, through the adoption of state law, is the constitutional responsibility of the legislature, not the courts;

(7) art. I, sec. 22, Constitution of the State of Alaska, after recognizing the right of the people to privacy, expressly grants to the legislature the authority to "implement this section," authority which it does not grant to the courts;

(8) it was never the intent of art. I, sec. 22, Constitution of the State of Alaska, or any other section of the Constitution of the State of Alaska, to recognize a right to take the life of a preborn child;

(9) art. IV, sec. 1, Constitution of the State of Alaska, provides that "The jurisdiction of the courts shall be prescribed by law," reserving to lawmakers a final check on any court that should arrogate power to itself through judicial edict; and

(10) to implement equal protection under the law for the right to life of each born and preborn human being, and under the duty and authority of the legislature, in whom all legislative power is vested under art. I, sec. 8, Constitution of the State of Alaska, the legislature hereby declares that the right to life guaranteed to all persons by the Constitution of the State of Alaska is vested in each human being.

* **Sec. 3.** AS 01.10.055 is amended by adding a new subsection to read:

(d) A preborn child is a resident of the state if the mother of the preborn child is a resident of the state under this section.

* **Sec. 4.** AS 01.10.060(a) is amended by adding new paragraphs to read:

(15) "conception" means, notwithstanding any other provision of law, the beginning of biological development of a human organism when the sperm and the egg fuse, or, in the case of asexual reproduction, the equivalent stage of development where a complete new human organism is present;

(16) "natural person" means a human being, regardless of age, location, capacity to function, condition of physical or mental dependency, or disability, from the moment of conception;

(17) "preborn child" means a natural person from the moment of conception who has not been born.

* **Sec. 5.** AS 01 is amended by adding a new chapter to read:

Chapter 15. Interpretation of Right to Privacy.

1 **Sec. 01.15.010. Acts not protected under right to privacy.** Notwithstanding
 2 any other provision of law, abortion or any other taking of innocent human life is not
 3 protected by a right to privacy under art. I, sec. 22, Constitution of the State of Alaska.

4 * **Sec. 6.** AS 09.10 is amended by adding a new section to read:

5 **Sec. 09.10.095. Actions relating to preborn children and human life.** A
 6 person may not bring an action against the state or an officer or employee of the state
 7 alleging that an action taken by a state officer or employee to implement the changes
 8 made by this Act exceeds the scope of authority conferred by this Act or has the effect
 9 of denying a person the rights guaranteed under the Constitution of the State of Alaska
 10 unless the action is commenced within 60 days of the action taken by the officer or
 11 employee.

12 * **Sec. 7.** AS 09.55.585(a) is amended to read:

13 (a) A parent or legal guardian of a preborn [AN UNBORN] child may
 14 maintain an action as plaintiff for the death of a preborn [AN UNBORN] child that
 15 was caused by the wrongful act or omission of another.

16 * **Sec. 8.** AS 09.55.585(b) is amended to read:

17 (b) This section does not apply to acts or omissions that are committed
 18 [(1) CAUSE THE DEATH OF AN UNBORN CHILD IF THOSE
 19 ACTS OR OMISSIONS ARE COMMITTED DURING A LEGAL ABORTION TO
 20 WHICH THE PREGNANT WOMAN OR A PERSON AUTHORIZED BY LAW TO
 21 ACT ON HER BEHALF CONSENTS OR FOR WHICH CONSENT IS IMPLIED
 22 BY LAW;
 23 (2) ARE COMMITTED] under usual and customary standards of
 24 medical practice during diagnostic testing, during therapeutic treatment, or while
 25 assisting a pregnancy [; or
 26 (3) ARE COMMITTED BY A PREGNANT WOMAN AGAINST
 27 HERSELF AND HER UNBORN CHILD].

28 * **Sec. 9.** AS 09.55.585(c) is amended to read:

29 (c) This section does not limit any other cause of action that a parent or legal
 30 guardian may maintain for the death of a preborn [AN UNBORN] child.

31 * **Sec. 10.** AS 09.65 is amended by adding a new section to read:

1 **Sec. 09.65.252. Immunity for actions relating to preborn children.** A
 2 person, including a state officer or employee, may not be held liable for a good faith
 3 action taken to implement the changes made by this Act.

4 * **Sec. 11.** AS 11.41.135 is amended to read:

5 **Sec. 11.41.135. Multiple deaths.** If more than one person dies as a result of a
 6 person committing conduct constituting a crime specified in **AS 11.41.100 - 11.41.170**
 7 [AS 11.41.100 - 11.41.130], each death constitutes a separately punishable offense.

8 * **Sec. 12.** AS 11.41.150 is amended to read:

9 **Sec. 11.41.150. Murder of a preborn [AN UNBORN] child.** (a) A person
 10 commits the crime of murder of a preborn [AN UNBORN] child if the person

11 (1) with intent to cause the death of a preborn [AN UNBORN] child
 12 or of another person, causes the death of a preborn [AN UNBORN] child;

13 (2) with intent to cause serious physical injury to a preborn [AN
 14 UNBORN] child or to another person or knowing that the conduct is substantially
 15 certain to cause death or serious physical injury to a preborn [AN UNBORN] child or
 16 to another person, causes the death of a preborn [AN UNBORN] child;

17 (3) while acting alone or with one or more persons, commits or
 18 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
 19 degree, sexual assault in the second degree, sexual abuse of a minor in the first degree,
 20 sexual abuse of a minor in the second degree, burglary in the first degree, escape in the
 21 first or second degree, robbery in any degree, or misconduct involving a controlled
 22 substance under AS 11.71.010(a), 11.71.030(a)(1), (2), or (4) - (8), or 11.71.040(a)(1)
 23 or (2), and, in the course of or in furtherance of that crime or in immediate flight from
 24 that crime, any person causes the death of a preborn [AN UNBORN] child;

25 (4) knowingly engages in conduct that results in the death of a
 26 preborn [AN UNBORN] child under circumstances manifesting an extreme
 27 indifference to the value of human life; for purposes of this paragraph, a pregnant
 28 woman's decision to remain in a relationship in which domestic violence, as defined in
 29 AS 18.66.990, has occurred does not constitute conduct manifesting an extreme
 30 indifference to the value of human life;

31 **(5) knowingly removes, or causes or permits the removal of, a**

preborn child from the state for the purpose of killing the preborn child.

(b) A person may not be convicted under (a)(3) of this section if the only underlying crime is burglary, the sole purpose of the burglary is a criminal homicide, and the **preborn** [UNBORN] child killed is the intended victim of the defendant. However, if the defendant causes the death of another **preborn** [UNBORN] child, the defendant may be convicted under (a)(3) of this section. Nothing in this subsection precludes a prosecution for or conviction of murder in the first degree or murder in the second degree, murder of **a preborn** [AN UNBORN] child under **(a)(1), (2), (4), or (5) of this section** [AS 11.41.150(a)(1), (2), OR (4)], or any other crime.

(c) Murder of **a preborn** [AN UNBORN] child is an unclassified felony.

* **Sec. 13.** AS 11.41.160 is amended to read:

Sec. 11.41.160. Manslaughter of a preborn [AN UNBORN] child. (a) A person commits the crime of manslaughter of **a preborn** [AN UNBORN] child if, under circumstances not amounting to murder of **a preborn** [AN UNBORN] child, the person intentionally, knowingly, or recklessly causes the death of **a preborn** [AN UNBORN] child.

(b) Manslaughter of **a preborn** [AN UNBORN] child is a class A felony.

* **Sec. 14.** AS 11.41.170 is amended to read:

Sec. 11.41.170. Criminally negligent homicide of a preborn [AN UNBORN] child. (a) A person commits the crime of criminally negligent homicide of **a preborn** [AN UNBORN] child if, with criminal negligence, the person causes the death of **a preborn** [AN UNBORN] child.

(b) Criminally negligent homicide of **a preborn** [AN UNBORN] child is a class B felony.

* **Sec. 15.** AS 11.41.280 is amended to read:

Sec. 11.41.280. Assault of a preborn [AN UNBORN] child in the first degree. (a) A person commits the crime of assault of **a preborn** [AN UNBORN] child in the first degree if

(1) that person recklessly causes serious physical injury to **a preborn** [AN UNBORN] child by means of a dangerous instrument;

(2) with intent to cause serious physical injury to **a preborn** [AN

UNBORN] child or to another person, that person causes serious physical injury to **a preborn** [AN UNBORN] child;

(3) that person knowingly engages in conduct that results in serious physical injury to **a preborn** [AN UNBORN] child under circumstances manifesting extreme indifference to the value of human life; for purposes of this paragraph, a pregnant woman's decision to remain in a relationship in which domestic violence, as defined in AS 18.66.990, has occurred does not constitute conduct manifesting an extreme indifference to the value of human life; or

(4) that person recklessly causes serious physical injury to **a preborn** [AN UNBORN] child by repeated assaults using a dangerous instrument, even if each assault individually does not cause serious physical injury.

(b) Assault of **a preborn** [AN UNBORN] child in the first degree is a class A felony.

* **Sec. 16.** AS 11.41.282 is amended to read:

Sec. 11.41.282. Assault of a preborn [AN UNBORN] child in the second degree. (a) A person commits the crime of assault of **a preborn** [AN UNBORN] child in the second degree if

(1) with intent to cause physical injury to **a preborn** [AN UNBORN] child or to another person, that person causes serious physical injury to **a preborn** [AN UNBORN] child;

(2) that person recklessly causes serious physical injury to **a preborn** [AN UNBORN] child; or

(3) that person recklessly causes serious physical injury to **a preborn** [AN UNBORN] child by repeated assaults, even if each assault individually does not cause serious physical injury.

(b) Assault of **a preborn** [AN UNBORN] child in the second degree is a class B felony.

* **Sec. 17.** AS 11.81.250(a) is amended to read:

(a) For purposes of sentencing under AS 12.55, all offenses defined in this title, except murder in the first and second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder

1 in the first degree, murder of **a preborn** [AN UNBORN] child, sexual assault in the
 2 first degree, sexual abuse of a minor in the first degree, misconduct involving a
 3 controlled substance in the first degree, sex trafficking in the first degree under
 4 AS 11.66.110(a)(2), and kidnapping, are classified on the basis of their seriousness,
 5 according to the type of injury characteristically caused or risked by commission of
 6 the offense and the culpability of the offender. Except for murder in the first and
 7 second degree, attempted murder in the first degree, solicitation to commit murder in
 8 the first degree, conspiracy to commit murder in the first degree, murder of **a preborn**
 9 [AN UNBORN] child, sexual assault in the first degree, sexual abuse of a minor in the
 10 first degree, misconduct involving a controlled substance in the first degree, sex
 11 trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, the offenses
 12 in this title are classified into the following categories:

13 (1) class A felonies, which characteristically involve conduct resulting
 14 in serious physical injury or a substantial risk of serious physical injury to a person;

15 (2) class B felonies, which characteristically involve conduct resulting
 16 in less severe violence against a person than class A felonies, aggravated offenses
 17 against property interests, or aggravated offenses against public administration or
 18 order;

19 (3) class C felonies, which characteristically involve conduct serious
 20 enough to deserve felony classification but not serious enough to be classified as A or
 21 B felonies;

22 (4) class A misdemeanors, which characteristically involve less severe
 23 violence against a person, less serious offenses against property interests, less serious
 24 offenses against public administration or order, or less serious offenses against public
 25 health and decency than felonies;

26 (5) class B misdemeanors, which characteristically involve a minor
 27 risk of physical injury to a person, minor offenses against property interests, minor
 28 offenses against public administration or order, or minor offenses against public health
 29 and decency;

30 (6) violations, which characteristically involve conduct inappropriate
 31 to an orderly society but **that** [WHICH] do not denote criminality in their commission.

1 * **Sec. 18.** AS 11.81.250(b) is amended to read:

2 (b) The classification of each felony defined in this title, except murder in the
3 first and second degree, attempted murder in the first degree, solicitation to commit
4 murder in the first degree, conspiracy to commit murder in the first degree, murder of
5 a preborn [AN UNBORN] child, sexual assault in the first degree, sexual abuse of a
6 minor in the first degree, misconduct involving a controlled substance in the first
7 degree, sex trafficking in the first degree under AS 11.66.110(a)(2), and kidnapping, is
8 designated in the section defining it. A felony under the law of this state defined
9 outside this title for which no penalty is specifically provided is a class C felony.

10 * **Sec. 19.** AS 12.55.035(b) is amended to read:

11 (b) Upon conviction of an offense, a defendant who is not an organization may
12 be sentenced to pay, unless otherwise specified in the provision of law defining the
13 offense, a fine of not more than

14 (1) \$500,000 for murder in the first or second degree, attempted
15 murder in the first degree, murder of a preborn [AN UNBORN] child, sexual assault
16 in the first degree, sexual abuse of a minor in the first degree, kidnapping, sex
17 trafficking in the first degree under AS 11.66.110(a)(2), or misconduct involving a
18 controlled substance in the first degree;

19 (2) \$250,000 for a class A felony;

20 (3) \$100,000 for a class B felony;

21 (4) \$50,000 for a class C felony;

22 (5) \$25,000 for a class A misdemeanor;

23 (6) \$2,000 for a class B misdemeanor;

24 (7) \$500 for a violation.

25 * **Sec. 20.** AS 12.55.125(a) is amended to read:

26 (a) A defendant convicted of murder in the first degree or murder of a
27 preborn [AN UNBORN] child under AS 11.41.150(a)(1) shall be sentenced to a
28 definite term of imprisonment of at least 30 years but not more than 99 years. A
29 defendant convicted of murder in the first degree shall be sentenced to a mandatory
30 term of imprisonment of 99 years when

31 (1) the defendant is convicted of the murder of a uniformed or

1 otherwise clearly identified peace officer, firefighter, or correctional employee who
 2 was engaged in the performance of official duties at the time of the murder;

3 (2) the defendant has been previously convicted of

4 (A) murder in the first degree under AS 11.41.100 or former
 5 AS 11.15.010 or 11.15.020;

6 (B) murder in the second degree under AS 11.41.110 or former
 7 AS 11.15.030; or

8 (C) homicide under the laws of another jurisdiction when the
 9 offense of which the defendant was convicted contains elements similar to first
 10 degree murder under AS 11.41.100 or second degree murder under
 11 AS 11.41.110;

12 (3) the defendant subjected the murder victim to substantial physical
 13 torture;

14 (4) the defendant is convicted of the murder of and personally caused
 15 the death of a person, other than a participant, during a robbery; or

16 (5) the defendant is a peace officer who used the officer's authority as a
 17 peace officer to facilitate the murder.

18 * **Sec. 21.** AS 12.55.125(b) is amended to read:

19 (b) A defendant convicted of attempted murder in the first degree, solicitation
 20 to commit murder in the first degree, conspiracy to commit murder in the first degree,
 21 kidnapping, or misconduct involving a controlled substance in the first degree shall be
 22 sentenced to a definite term of imprisonment of at least five years but not more than
 23 99 years. A defendant convicted of murder in the second degree or murder of a
 24 preborn [AN UNBORN] child under AS 11.41.150(a)(2) - (5) [AS 11.41.150(a)(2) -
 25 (4)] shall be sentenced to a definite term of imprisonment of at least 15 years but not
 26 more than 99 years. A defendant convicted of murder in the second degree shall be
 27 sentenced to a definite term of imprisonment of at least 20 years but not more than 99
 28 years when the defendant is convicted of the murder of a child under 16 years of age
 29 and the court finds by clear and convincing evidence that the defendant (1) was a
 30 natural parent, a stepparent, an adoptive parent, a legal guardian, or a person
 31 occupying a position of authority in relation to the child; or (2) caused the death of the

1 child by committing a crime against a person under AS 11.41.200 - 11.41.530. In this
 2 subsection, "legal guardian" and "position of authority" have the meanings given in
 3 AS 11.41.470.

4 * **Sec. 22.** AS 13.06.120(a) is amended to read:

5 (a) In any proceedings involving trusts, nonprobate assets, or estates of
 6 decedents, minors, protected persons, or incapacitated persons brought under
 7 AS 13.06 - AS 13.36 or AS 13.38, the following apply:

8 (1) interests to be affected shall be described in pleadings that give
 9 reasonable information to owners by name or class, by reference to the instrument
 10 creating the interests, or in other appropriate manner;

11 (2) persons are bound by orders binding others in the following cases:

12 (A) orders binding the sole holder or all co-holders of a power
 13 of revocation or a general or nongeneral power of appointment, including one
 14 in the form of a power of amendment, bind other persons to the extent their
 15 interests, as objects, takers in default, or otherwise, are subject to the power;

16 (B) to the extent there is no conflict of interest between them or
 17 among persons represented, orders binding a conservator bind the person
 18 whose estate the conservator controls; orders binding a guardian bind the ward
 19 if no conservator of the estate has been appointed; orders binding a trustee bind
 20 beneficiaries of the trust in proceedings to probate a will establishing or adding
 21 to a trust, to review the acts or accounts of a prior fiduciary, and in proceedings
 22 involving creditors or other third parties; orders binding a personal
 23 representative bind persons interested in the undistributed assets of a
 24 decedent's estate in actions or proceedings by or against the estate; and orders
 25 binding an agent having authority to act with respect to the particular questions
 26 or dispute bind the principal; if there is no conflict of interest and no
 27 conservator or guardian has been appointed, a parent may represent the minor
 28 child;

29 (C) a preborn [AN UNBORN] person, a minor, an
 30 incapacitated person, or a person whose identity or location is unknown or not
 31 reasonably ascertainable who is not otherwise represented is bound by an order

1 to the extent the interest is adequately represented by another party having a
 2 substantially identical interest in the proceeding;

3 (D) with regard to interests given upon the happening of a
 4 certain event to persons who comprise a certain class, orders binding the living
 5 persons who would constitute the class, if the event had happened immediately
 6 before the commencement of the proceeding, bind all members of the class;

7 (E) with regard to an interest given to a living person when the
 8 same interest or a share of the interest is to pass to the surviving spouse or to
 9 persons who are or might be the distributees, devisees, heirs, or issue of the
 10 living person upon the happening of a future event, orders binding the living
 11 person bind the surviving spouse, distributees, devisees, heirs, or issue of the
 12 living person;

13 (F) with regard to interests given to a person or a class of
 14 persons, or to both, upon the happening of a future event, if the same interest
 15 or a share of the interest is to pass to another person or class of persons, or to
 16 both, upon the happening of an additional future event, orders binding the
 17 living person or class of persons who would take the interest upon the
 18 happening of the first event bind the persons and classes of persons who might
 19 take on the happening of the additional future event;

20 (G) if a person is designated by a trust instrument to represent
 21 and bind a born or preborn [UNBORN] beneficiary of the trust and receive a
 22 notice, information, accounting, or report for the beneficiary, then the
 23 beneficiary is bound by an order binding the designated person; in this
 24 subparagraph,

25 (i) the settlor may make the designation in the trust
 26 instrument, in a separate document, or by a trust protector authorized in
 27 the trust instrument to make the designation;

28 (ii) except as otherwise provided in this subparagraph, a
 29 person designated under (i) of this subparagraph may not represent and
 30 bind a beneficiary while the designated person is serving as trustee;

31 (iii) except as otherwise provided in this subparagraph,

1 a person designated under (i) of this subparagraph may not represent
 2 and bind another beneficiary if the designated person also is a
 3 beneficiary, unless the designated person was named by the settlor, is
 4 the beneficiary's spouse, or is a grandparent or descendant of a
 5 grandparent of the beneficiary or the beneficiary's spouse; in this sub-
 6 subparagraph, "spouse" means the individual to whom the beneficiary
 7 is married and with whom the beneficiary is living, and a physical
 8 separation primarily for education, business, health, and similar reasons
 9 does not prevent the individual from being considered to be living with
 10 the beneficiary;

11 (3) a person representing another person under (2)(A) - (F) of this
 12 section and a person designated under (2)(G)(i) of this section are not liable to the
 13 beneficiary whose interests are represented, or to a person claiming through that
 14 beneficiary, for an action or omission to act made in good faith;

15 (4) notice is required as follows:

16 (A) notice as prescribed by AS 13.06.110 shall be given to
 17 every interested person or to one person who can bind an interested person as
 18 described in (2)(A), (B), or (D) - (G) of this section; notice may be given both
 19 to a person and to another person who may bind the person;

20 (B) notice is given to preborn [UNBORN] persons, a minor,
 21 an incapacitated person, or a person whose identity or location is unknown or
 22 not reasonably ascertainable, and persons who are not represented under
 23 (2)(A), (B), or (D) - (G) of this section, by giving notice to all known persons
 24 whose interests in the proceedings are substantially identical to those of the
 25 preborn [UNBORN] persons, the minor, the incapacitated person, or the
 26 person whose identity or location is unknown or not reasonably ascertainable;

27 (5) at any point in a proceeding, a court may appoint a guardian ad
 28 litem to represent the interest of a preborn [AN UNBORN] person, a minor, an
 29 incapacitated person, or a person whose identity or address is unknown or not
 30 reasonably ascertainable, if the court determines that representation of the interest
 31 otherwise would be inadequate; if not precluded by conflict of interests, a guardian ad

litem may be appointed to represent several persons or interests; the court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

* **Sec. 23.** AS 13.16.665 is amended to read:

Sec. 13.16.665. Effect of approval of agreements. A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any governing instrument, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties to the compromise including those **preborn** [UNBORN], unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it.

* **Sec. 24.** AS 13.26.066(f) is amended to read:

(f) To designate an attorney-in-fact, a parent or guardian shall execute a power of attorney that is in substantially the following form:

STATUTORY FORM FOR POWER OF ATTORNEY

TO DELEGATE THE POWERS OF A PARENT OR GUARDIAN

Section 1. I certify that I am the parent or guardian of

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

who is/are minor children.

Section 2. I designate _____ (Full name of attorney-in-fact), _____

(Street address, city, state, and zip code of attorney-in-fact)

(Home telephone of attorney-in-fact)

(Work telephone of attorney-in-fact)

as the attorney-in-fact of each minor child named above.

Section 3. I delegate to the attorney-in-fact all of my power and authority regarding the care and custody of each minor child named above, including the right to enroll the child in school, the right to inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical treatment, dental treatment, and other activity, function, or treatment that may concern the minor child. This delegation does not include the power or authority to consent to the marriage or adoption of the minor child [, THE PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE MINOR CHILD,] or the termination of parental rights to the minor child.

OR

Section 4. I delegate to my attorney-in-fact the following specific powers and responsibilities (write in):

Delegation under this section does not include the power or authority to consent to the marriage or adoption of the minor child [, THE PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE MINOR CHILD,] or the termination of parental rights to the minor child.

(If you complete Section 4, Section 3 does not apply).

Section 5. This power of attorney is effective for a period not to exceed one year, beginning _____, 20 ____, and ending _____, 20 _____. I reserve the right to revoke this authority at any time.

OR

Section 6. I am a military parent or guardian under AS 13.26.023(d). My active duty is scheduled to begin on _____, 20 ____, and is estimated to end on _____, 20 _____. I acknowledge that this power of attorney will not last more than one year, or the term of my active duty service plus 30 days, whichever period is longer.

By: _____

(Parent/guardian signature)

Section 7. I hereby accept my designation as attorney-in-fact for the minor child/children identified in this power of attorney.

(Attorney-in-fact signature)

State of _____

_____ Judicial District

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for the Judicial District and State identified above, on this ____ day of _____, 20 ____, personally appeared _____ (name of parent/guardian) and _____ (name of attorney-in-fact), to me known to be the persons who executed this power of attorney, and each acknowledged to me that each executed the same as the person's free and voluntary act and deed for the uses and purposes set out in this power of attorney.

Witness my hand and official seal the day and year written above.

(Signature of notary public)

(Seal, if any)

(Title and rank)

My commission expires: _____

* **Sec. 25.** AS 13.26.316(e) is amended to read:

(e) A guardian may not

(1) place the ward in a facility or institution for the mentally ill other than through a formal commitment proceeding under AS 47.30 in which the ward has a separate guardian ad litem;

(2) consent on behalf of the ward to a [AN ABORTION,] sterilization, psychosurgery, or removal of bodily organs except when necessary to preserve the life or prevent serious impairment of the physical health of the ward;

(3) consent on behalf of the ward to the withholding of lifesaving medical procedures; however, a guardian is not required to oppose the cessation or withholding of lifesaving medical procedures when those procedures will serve only to prolong the dying process and offer no reasonable expectation of effecting a temporary or permanent cure of or relief from the illness or condition being treated unless the ward has clearly stated that lifesaving medical procedures not be withheld; a guardian is not civilly liable for acts or omissions under this paragraph unless the act or omission constitutes gross negligence or reckless or intentional misconduct;

(4) consent on behalf of the ward to the performance of an experimental medical procedure or to participation in a medical experiment not intended to preserve the life or prevent serious impairment of the physical health of the ward;

(5) consent on behalf of the ward to termination of the ward's parental rights;

(6) prohibit the ward from registering to vote or from casting a ballot at public election;

(7) prohibit the ward from applying for and obtaining a driver's license;

(8) prohibit the marriage or divorce of the ward.

* **Sec. 26.** AS 13.52.050 is amended to read:

Sec. 13.52.050. Decisions for exceptional procedures. Unless there is a durable power of attorney for health care or another writing clearly expressing an individual's intent to the contrary, an agent or surrogate may not consent on behalf of a patient to [AN ABORTION,] sterilization, psychosurgery, or removal of bodily organs except when the [ABORTION,] sterilization, psychosurgery, or removal of bodily organs is necessary to preserve the life of the patient or to prevent serious impairment of the health of the patient.

* **Sec. 27.** AS 18.05.032(a) is amended to read:

(a) The department shall maintain on the Internet, in printable form, standard information that

(1) contains geographically indexed material designed to inform a

1 person of public and private agencies, services, clinics, and facilities that are available
 2 to assist a woman with the woman's reproductive choices; the department shall include
 3 information about at least the following types of agencies, services, clinics, and
 4 facilities:

5 (A) agencies, services, clinics, and facilities designed to assist a
 6 woman through pregnancy, including adoption agencies, and counseling
 7 services;

8 (B) agencies, services, clinics, and facilities that provide
 9 [ABORTION OPTIONS AND COUNSELING AND] post-abortion
 10 counseling and services; and

11 (C) agencies, services, clinics, and facilities designed to assist
 12 with or provide contraceptive options and counseling for appropriate family
 13 planning;

14 (2) includes a comprehensive regional directory of the agencies,
 15 services, clinics, and facilities that request to be identified by the department under (1)
 16 of this subsection, a description of the services they offer, and the manner in which the
 17 agencies, services, clinics, and facilities may be contacted, including telephone
 18 numbers;

19 (3) provides information concerning the eligibility for medical
 20 assistance benefits for prenatal care, childbirth, neonatal care, [ABORTION
 21 SERVICES,] women's health care, and contraception;

22 (4) [STATES THAT INFORMED AND VOLUNTARY CONSENT
 23 IS REQUIRED UNDER AS 18.16.060 FOR AN ABORTION];

24 (5)] provides information concerning the process by which a mother of
 25 a child may establish a child support order to assist in the support of a child;

26 **(5)** [(6)] describes the fetal development of a typical **preborn**
 27 [UNBORN] child at two-week gestational increments from fertilization to full-term,
 28 including links to photographs of a typical **preborn** [UNBORN] child at four-week
 29 gestational increments, and relevant information about the possibility of **a preborn**
 30 [AN UNBORN] child's survival at the various gestational ages; the information must
 31 be objective, nonjudgmental information that is reviewed and approved for medical

1 accuracy by recognized obstetrical and gynecological specialists designated by the
 2 State Medical Board and designed to convey only accurate scientific information
 3 about preborn [UNBORN] children at various gestational ages;

4 (6) [(7)] contains objective, unbiased information that is reviewed and
 5 approved for medical accuracy by recognized obstetrical and gynecological specialists
 6 designated by the state medical board;

7 (7) [AND THAT DESCRIBES THE METHODS OF ABORTION
 8 PROCEDURES AND TREATMENTS COMMONLY EMPLOYED AND THE
 9 MEDICAL RISKS AND POSSIBLE COMPLICATIONS COMMONLY
 10 ASSOCIATED WITH EACH PROCEDURE AND TREATMENT, AS WELL AS
 11 THE POSSIBLE PHYSICAL AND PSYCHOLOGICAL EFFECTS THAT HAVE
 12 BEEN ASSOCIATED WITH HAVING AN ABORTION;

13 (8)] contains objective, unbiased information that is reviewed and
 14 approved for medical accuracy by recognized obstetrical and gynecological specialists
 15 designated by the State Medical Board and that describes the possible medical risks
 16 and complications commonly associated with pregnancy and childbirth, as well as the
 17 possible physical and psychological effects that have been associated with carrying a
 18 child to term;

19 (8) [(9)] contains objective, unbiased information that is reviewed and
 20 approved for medical accuracy by recognized obstetrical and gynecological specialists
 21 designated by the State Medical Board and that concerns the harmful effects on a
 22 preborn [AN UNBORN] child when a woman consumes alcohol, tobacco, or illegal
 23 drugs during pregnancy;

24 (9) [(10)] contains objective, unbiased, and comprehensive information
 25 that is reviewed and approved for medical accuracy by recognized obstetrical and
 26 gynecological specialists designated by the State Medical Board and that describes the
 27 different types of available contraceptive choices, including abstinence and natural
 28 family planning, that describes the methods of contraception that are intended to
 29 prevent fertilization [AND THE METHODS THAT ARE INTENDED TO PREVENT
 30 IMPLANTATION OF A FERTILIZED EGG], and that describes the reliability,
 31 psychological effects, medical risks, and complications commonly associated with

1 each method;

2 (10) [(11)] contains a disclaimer on the website home page concerning
3 the graphic or sensitive nature of the information contained on the website;

4 (11) [(12)] contains a signature form by which a person may indicate
5 the person has reviewed the information.

6 * **Sec. 28.** AS 18.05.032(c)(3) is amended to read:

7 (3) "gestational age" means the age of the preborn [UNBORN] child
8 as calculated from the first day of the last menstrual period of a pregnant woman;

9 * **Sec. 29.** AS 21.07.250(3) is amended to read:

10 (3) "emergency medical condition" means a medical condition
11 manifesting itself by acute symptoms of sufficient severity, including severe pain, that
12 a prudent person who possesses an average knowledge of health and medicine could
13 reasonably expect that the absence of immediate medical attention would result in
14 serious impairment of bodily functions, serious dysfunction of a bodily organ or part,
15 or would place the person's health or, with respect to a pregnant woman, the health of
16 the woman or her preborn [UNBORN] child, in serious jeopardy.

17 * **Sec. 30.** AS 22.05.010 is amended by adding a new subsection to read:

18 (g) The supreme court is vested with exclusive original jurisdiction in any case

19 (1) involving whether the taking of the life of a preborn child is
20 protected under the Constitution of the State of Alaska;

21 (2) questioning the constitutionality of AS 01.10.060(a)(15), (16), and
22 (17), related to the meanings of conception, natural person, and preborn child, as used
23 in the Alaska Statutes; and

24 (3) involving the liability of the state or an officer or employee of the
25 state for taking an action to enforce a statute that penalizes the taking of the life of a
26 preborn child.

27 * **Sec. 31.** AS 22.10.020(a) is amended to read:

28 (a) **Except as provided in AS 22.05.010(g), the** [THE] superior court is the
29 trial court of general jurisdiction, with original jurisdiction in all civil and criminal
30 matters, including probate and guardianship of minors and incompetents. Except for a
31 petition for a protective order under AS 18.66.100 - 18.66.180, an action that falls

1 within the concurrent jurisdiction of the superior court and the district court may not
 2 be filed in the superior court, except as provided by rules of the supreme court.

3 * **Sec. 32.** AS 25.20.025(a) is amended to read:

4 (a) **A minor** [EXCEPT AS PROHIBITED UNDER AS 18.16.010(a)(3),]

5 (1) [A MINOR] who is living apart from the minor's parents or legal
 6 guardian and who is managing the minor's own financial affairs, regardless of the
 7 source or extent of income, may give consent for medical and dental services for the
 8 minor;

9 (2) [A MINOR] may give consent for medical and dental services if
 10 the parent or legal guardian of the minor cannot be contacted or, if contacted, is
 11 unwilling either to grant or withhold consent; however, where the parent or legal
 12 guardian cannot be contacted or, if contacted, is unwilling either to grant or to
 13 withhold consent, the provider of medical or dental services shall counsel the minor
 14 keeping in mind not only the valid interests of the minor but also the valid interests of
 15 the parent or guardian and the family unit as best the provider presumes them;

16 (3) [A MINOR] who is the parent of a child may give consent to
 17 medical and dental services for the minor or the child;

18 (4) [A MINOR] may give consent for diagnosis, prevention or
 19 treatment of pregnancy, and for diagnosis and treatment of venereal disease [;

20 (5) THE PARENT OR GUARDIAN OF THE MINOR IS RELIEVED
 21 OF ALL FINANCIAL OBLIGATION TO THE PROVIDER OF THE SERVICE
 22 UNDER THIS SECTION].

23 * **Sec. 33.** AS 25.20.025 is amended by adding a new subsection to read:

24 (d) The parent or guardian of a minor is relieved of all financial obligation to a
 25 provider of a service under this section.

26 * **Sec. 34.** AS 44.21.410(a) is amended to read:

27 (a) The office of public advocacy shall

28 (1) perform the duties of the public guardian under AS 13.26.700 -
 29 13.26.750;

30 (2) provide visitors and experts in guardianship proceedings under
 31 AS 13.26.291;

1 (3) provide guardian ad litem services to children in child protection
2 actions under AS 47.17.030(e) and to wards and respondents in guardianship
3 proceedings who will suffer financial hardship or become dependent on [UPON] a
4 government agency or a private person or agency if the services are not provided at
5 state expense under AS 13.26.041;

6 (4) provide legal representation [IN CASES INVOLVING JUDICIAL
7 BYPASS PROCEDURES FOR MINORS SEEKING ABORTIONS UNDER
8 AS 18.16.030,] in guardianship proceedings to respondents who are financially unable
9 to employ attorneys under AS 13.26.226(b), to indigent parties in cases involving
10 child custody in which the opposing party is represented by counsel provided by a
11 public agency, and to indigent parents or guardians of a minor respondent in a
12 commitment proceeding concerning the minor under AS 47.30.775;

13 (5) provide legal representation and guardian ad litem services under
14 AS 25.24.310; in cases arising under AS 47.15 (Interstate Compact for Juveniles); in
15 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the
16 termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases
17 involving petitions to remove the disabilities of a minor under AS 09.55.590; in
18 children's proceedings under AS 47.10.050(a) or under AS 47.12.090; in cases
19 involving appointments under AS 18.66.100(a) in petitions for protective orders on
20 behalf of a minor; and in cases involving indigent persons who are entitled to
21 representation under AS 18.85.100 and who cannot be represented by the public
22 defender agency because of a conflict of interests;

23 (6) develop and coordinate a program to recruit, select, train, assign,
24 and supervise volunteer guardians ad litem from local communities to aid in delivering
25 services in cases in which the office of public advocacy is appointed as guardian ad
26 litem;

27 (7) provide guardian ad litem services in proceedings under
28 AS 12.45.046 or AS 18.15.355 - 18.15.395;

29 (8) establish a fee schedule and collect fees for services provided by
30 the office, except as provided in AS 18.85.120 or when imposition or collection of a
31 fee is not in the public interest as defined under regulations adopted by the

1 commissioner of administration;

2 (9) provide visitors and guardians ad litem in proceedings under
3 AS 47.30.839;

4 (10) provide legal representation to an indigent parent of a child with a
5 disability; in this paragraph, "child with a disability" has the meaning given in
6 AS 14.30.350;

7 (11) investigate complaints and bring civil actions under
8 AS 44.21.415(a) involving fraud committed against residents of the state who are 60
9 years of age or older; in this paragraph, "fraud" has the meaning given in
10 AS 44.21.415.

11 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 DIRECT COURT RULE AMENDMENT. Rule 404(a), Alaska Rules of
14 Appellate Procedure, is amended to read:

15 (a) **When Filed.**

16 (1) An original application for relief may be filed with the appellate
17 court or a judge or justice thereof in any matter within its jurisdiction, whenever relief
18 is not available from any other court and cannot be obtained through the process of
19 appeal, petition for review, or petition for hearing. **Except for an action described in**
20 **AS 22.05.010(g), grant** [GRANT] of the application is not a matter of right but of
21 sound discretion sparingly exercised.

22 (2) An original application for relief, if seeking relief in connection
23 with an action or proceeding in a trial court, shall be directed to the appellate court
24 which would have jurisdiction over an appeal from the final judgment of the trial court
25 in that action or proceeding.

26 (3) An original application for relief, if not ancillary to an action or
27 proceeding in a trial court, may be directed to any appellate court having jurisdiction
28 under the applicable statutes.

29 * **Sec. 36.** AS 08.64.105, 08.64.326(a)(10), 08.64.364(d)(1); AS 09.55.585(d);
30 AS 11.41.180, 11.41.289; AS 11.81.900(b)(64); AS 13.26.066(a)(2); AS 18.05.032(c)(1),
31 18.05.032(c)(4), 18.05.035; AS 18.16.010, 18.16.020, 18.16.030, 18.16.040, 18.16.050,

1 18.16.060, 18.16.090; and AS 47.07.068 are repealed.

2 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 APPLICABILITY. (a) The repeals of AS 11.41.180 and 11.41.289 by sec. 36 of this
5 Act apply to offenses committed on or after the effective date of sec. 36 of this Act.

6 (b) AS 11.41.150(a), as amended by sec. 12 of this Act, applies to offenses committed
7 on or after the effective date of sec. 12 of this Act.

8 * **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 NONSEVERABILITY. Notwithstanding AS 01.10.030, the provisions of this Act are
11 not severable.

12 * **Sec. 39.** This Act takes effect immediately under AS 01.10.070(c).